

PATENT COOPERATION TREATY

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INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference 118247WO-JVG/RTW/te	FOR FURTHER ACTION		See Form PCT/PEA/416
International application No. PCT/GB2004/004606	International filing date (day/month/year) 01.11.2004	Priority date (day/month/year) 31.10.2003	
International Patent Classification (IPC) or national classification and IPC A61M1/00			
Applicant GORDON, Angus Buchan et al.			
<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 6 sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input type="checkbox"/> sent to the applicant and to the International Bureau) a total of sheets, as follows:</p> <p><input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</p> <p><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</p> <p>b. <input type="checkbox"/> (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) , containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p>			
<p>4. This report contains indications relating to the following items:</p> <p><input checked="" type="checkbox"/> Box No. I Basis of the opinion</p> <p><input type="checkbox"/> Box No. II Priority</p> <p><input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</p> <p><input type="checkbox"/> Box No. IV Lack of unity of invention</p> <p><input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p><input type="checkbox"/> Box No. VI Certain documents cited</p> <p><input type="checkbox"/> Box No. VII Certain defects in the international application</p> <p><input type="checkbox"/> Box No. VIII Certain observations on the international application</p>			
Date of submission of the demand 29.08.2005		Date of completion of this report 09.12.2005	
Name and mailing address of the international preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465		Authorized Officer Mausser, T Telephone No. +49 89 2399-2355 	

**INTERNATIONAL PRELIMINARY REPORT
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International application No.
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Box No. I Basis of the report

1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
- ☐ This report is based on translations from the original language into the following language , which is the language of a translation furnished for the purposes of:
- ☐ international search (under Rules 12.3 and 23.1(b))
 - ☐ publication of the international application (under Rule 12.4)
 - ☐ international preliminary examination (under Rules 55.2 and/or 55.3)
2. With regard to the **elements*** of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report):*

Description, Pages

1-9 as originally filed

Claims, Numbers

1-23 as originally filed

Drawings, Sheets

1/2, 2/2 as originally filed

- ☐ a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing

3. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages
- ☐ the claims, Nos.
- ☐ the drawings, sheets/figs
- ☐ the sequence listing (*specify*):
- ☐ any table(s) related to sequence listing (*specify*):

4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

- ☐ the description, pages
- ☐ the claims, Nos.
- ☐ the drawings, sheets/figs
- ☐ the sequence listing (*specify*):
- ☐ any table(s) related to sequence listing (*specify*):

* If item 4 applies, some or all of these sheets may be marked "superseded."

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Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	4-22
	No: Claims	1-3
Inventive step (IS)	Yes: Claims	7,8
	No: Claims	1-6,9-22
Industrial applicability (IA)	Yes: Claims	1-22
	No: Claims	

2. Citations and explanations (Rule 70.7):

see separate sheet

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1

The following documents are referred to in this communication:

D1 : US 4 642 093 A (HAERLE ET AL) 10 February 1987 (1987-02-10)

D2 : US 4 820 284 A (HAURI ET AL) 11 April 1989 (1989-04-11)

D3 : US 5 073 172 A (FELL ET AL) 17 December 1991 (1991-12-17) cited in the application

D4 : DE 35 24 893 A1 (PFM PLASTIK FUER DIE MEDIZIN GMBH) 22 January 1987 (1987-01-22)

2

INDEPENDENT CLAIM 1

The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claim 1 is not new in the sense of Article 33(2) PCT. Document D1 (or as well D2 to D4) discloses (the references in parentheses applying to the document D1):

A closed drainage device comprising:
a pre-evacuated chamber (2);
a drainage tube (5) connecting the pre-evacuated chamber to a needle; and a clamp (7) attached to the connecting tube,
wherein the clamp is in a first position that maintains the vacuum of the pre-evacuated chamber and has a second position that does not maintain the vacuum of the pre-evacuated chamber.

The applicant argues that the prior art does not include a needle. This cannot be followed however with respect to for example D1 column 1, lines 12 or 28 or 40.

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DEPENDENT CLAIMS 2, 3

Dependent claims 2, 3 are known from D1 (or D2 to D4) as well.

DEPENDENT CLAIMS 4-6 and 9-22

In view of D1 to D4 dependent claims 4-6 and 9-22 do not contain any features which, in combination with the features of any claim to which they refer, meet the requirements of the PCT in respect of inventive step (Article 33(2) and (3) PCT).

DEPENDENT CLAIMS 7 and 8,

The combination of the features of dependent claim 7 is neither known from, nor rendered obvious by, the available prior art. The subject-matter of claim 7 differs from D1 in that the pre-evacuated chamber is coiled and/or folded. This measure allows to reduce the overall size of the drainage.

Claim 8 is dependent on claim 7 and as such also meets the requirements of the PCT with respect to novelty and inventive step.

FURTHER COMMENTS:

1.) The features of the claims are not provided with reference signs placed in parentheses (Rule 6.2(b) PCT).

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- 2.) The independent claim is not in the two-part form, whereby the features known from D1 should have been placed in the preamble.
- 3.) Claim 23 contains references to the drawings. According to Rule 6.2(a) PCT, claims should not contain such references except where absolutely necessary, which is not the case here.